

03500.011186.1 (35.C11186 DI)



PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Examiner: Tuan V. Ho
	:	
Masanori KAWASHIMA	)	Group Art Unit: 2615
	:	
Application No.: 09/955,206	)	Patent No.: 6,980,238 B2
	:	
Filed: September 19, 2001	)	Issued: December 27, 2005
	:	
For: IMAGE COMMUNICATION	)	
SYSTEM AND METHOD	:	
UTILIZING SELF-PORTRAIT	)	
AND PARTNER DISPLAY	:	
WINDOWS	)	February 22, 2005

**Mail Stop Patent Extension**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF  
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)

Sir:

RELIEF REQUESTED

Patentee hereby requests reconsideration and recalculation of the Patent Term Adjustment (PTA) for the above-identified patent. See 37 C.F.R. § 1.705(d). For the following reasons, this patent is believed to be entitled to a PTA of 796 days:

02/24/2006 MBEYENE2 00000001 09955206

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200.00 DP

## FACTS

1. On April 20, 2005, a Notice of Allowance was mailed that indicated a 714 day extension.
2. On May 9, 2005, Applicant's representative conducted a telephonic interview with the Examiner to point out a U.S. Patent and Trademark Office error in the listing of allowed claims set forth in the April 20, 2005 Notice of Allowability.
3. On May 11, 2005, an Examiner Interview Summary Record was mailed, correcting the U.S. Patent and Trademark Office error in the listing of allowed claims.
4. The Interview Summary Record stated that "If a reply to the last Office action has already been filed, Applicant is given one month from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview".
5. On May 26, 2005, Patentee filed, inter alia, a Statement of Substance of Interview.
6. The PAIR system (copy of printout attached) assigns 120 days of Applicant delay to the Statement of Substance of Interview.
7. On June 6, 2005, Applicant paid the issue fee.
8. On December 27, 2005, the subject patent issued indicating a PTA of 676 days, i.e., 796 days less the 120 days.
9. The patent is not subject to any terminal disclaimer.
10. In view of the foregoing, Patentee respectfully submits that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704.

## ARGUMENT

Patent term adjustment is reduced by the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution. See 35 U.S.C. § 154(b)(2)(C)(i). When papers are filed after the mailing of a Notice of Allowance, such failure is present only when the paper causes “substantial interference and delay in the patent issue process”. See O.G. Notice "Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed" dated June 26, 2001. According to the Notice, papers said to cause such interference and delay include (1) a request for a refund, (2) a status letter, (3) amendments under 37 C.F.R. § 1.312, (4) late priority claims, (5) a certified copy of a priority document, (6) drawings, (7) letters related to biological deposits, and (8) oaths or declarations, whereas papers said not to cause interference and delay include (1) Issue Fee Transmittal, (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests. *Id.*

While a Statement of Substance of Interview paper is not specifically listed in the O.G. Notice as belonging to either of these two classes of examples, Patentee respectfully submits that the Statement of Substance of Interview filed in this case is not a paper causing interference and delay, and therefore should not affect PTA. Furthermore, the Interview Summary Record stated that “If a reply to the last Office action has already been filed, Applicant is given one month from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview”. Accordingly, although no formal reply to the Office Action was filed, Patentee filed the Statement of Substance of Interview to avoid any question of compliance with the Statement of Substance of Interview requirement. See also 37

C.F.R. § 1.133(b), MPEP 713.04. Lastly, Patentee understands that it is the policy of the Office of Patent Legal Administration to consider a Statement of Substance of Interview of the type filed here as a paper not causing interference or delay. Therefore, Patentee respectfully submits that the 120 days charged as Applicant delay should be reconsidered.

#### FORMAL MATTERS

Submitted herewith is a check for \$200.00 for the fee set forth in 37 C.F.R. § 1.18(e). Any deficiency in this fee may be charged or any overpayment credited to Deposit Account No. 06-1205.

#### REQUEST FOR INTERVIEW

If any questions remain, Patentee respectfully requests that the U.S. Patent and Trademark Office contact Patentee's undersigned representative at (202) 530-1010 to schedule an interview.

CONCLUSION

In view of the foregoing, favorable consideration hereof and reconsideration and recalculation of the PTA to be 796 days are earnestly solicited.

Respectfully submitted,



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 09/955,206 IMAGE COMMUNICATION SYSTEM AND METHOD UTILIZING SELF-PORTRAIT AND PARTNER  
 DISPLAY WINDOWS

## Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 09/955,206			
			Days
Filing or 371(c) Date:	09-19-2001	USPTO Delay (PTO):	796
Issue Date of Patent:	12-27-2005	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	120
Post-Issue Petitions (days):	+0	Total PTA:	676
USPTO Adjustment(days):	+0	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL(Days)
12-27-2005	Patent Issue Date Used in PTA Calculation	82	
12-07-2005	PTA 36 Months	↑	
11-01-2005	Dispatch to FDC	↑	
08-16-2005	Application Is Considered Ready for Issue	↑	
06-06-2005	Issue Fee Payment Verified	↑	
06-06-2005	Issue Fee Payment Received	↑	
05-26-2005	Miscellaneous Incoming Letter	↑	120
05-26-2005	Response to Reasons for Allowance	↑	↑
05-11-2005	Mail Miscellaneous Communication to Applicant	↑	↑
05-10-2005	Miscellaneous Communication to Applicant - No Action Count	↑	↑
05-09-2005	Examiner Interview Summary Record (PTOL - 413)	↑	↑
04-20-2005	Mail Notice of Allowance	↑	↑
04-18-2005	Notice of Allowance Data Verification Completed	↑	↑
04-08-2005	Date Forwarded to Examiner	↑	↑
02-02-2005	Response after Non-Final Action	↑	↑
02-02-2005	Workflow incoming amendment IFW	↑	↑
11-02-2004	Mail Non-Final Rejection	714	
11-01-2004	Non-Final Rejection	↑	
08-26-2004	Case Docketed to Examiner in GAU	↑	
08-24-2004	Case Docketed to Examiner in GAU	↑	
08-16-2004	Claims PTO	↑	
08-16-2004	IFW TSS Processing by Tech Center Complete	↑	
03-05-2004	Case Docketed to Examiner in GAU	↑	

10-31-2001	Application Dispatched from OIPE	↑	
10-30-2001	Correspondence Address Change	↑	
09-24-2001	IFW Scan & PACR Auto Security Review	↑	
09-19-2001	Reference capture on IDS	↑	
09-19-2001	Information Disclosure Statement (IDS) Filed	↑	
09-19-2001	Preliminary Amendment	↑	
09-19-2001	Initial Exam Team nn	↑	

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